



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

Part V Scallops



October 25, 2002

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10, and in accordance with 42-35, of the Rhode Island General Laws of 1956, as amended.

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PURPOSE

The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42.17.1, 42-17.6, 20-1-2, 20-1-4, 20-3-2 thru 20-3-6, 20-4 thru 20-10 and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, ' 1.3.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS (#1838)

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part V (#1838) shall be superseded.

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 25th day of October, 2002 to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Chapters 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4 through 20-10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

Jan Harmen Reitsma,
Director

Notice Given: 11/17/01
Public Hearing: 12/18/01

Filing date: 10/25/2002
Effective date: 20 days from filing (11/14/2002)

October 25, 2002

Honorable Edward S. Inman III
Secretary of State
217 State House
Providence, RI 02907

Dear Mr. Secretary:

Pursuant to the provisions of Chapter 42-17.1 and 20-3, and in accordance with 42-35 of the Administrative Procedures Act of the General Laws of Rhode Island, 1956 as amended, the Department of Environmental Management has adopted regulations governing the commercial harvest of shellfish.

The purpose of this filing is to prohibit scallop dredging in Point Judith Pond during the 2002 scallop season; and to eliminate language prohibiting the use of SCUBA to harvest shellfish in Charlestown, Green Hill, and Quonochontaug Ponds for consistency with the RI General Laws.

This regulation becomes effective 20 days from filing.

Sincerely,

John A. Stolgitis,
Chief

R.I. Marine Fisheries Statutes and Regulations

PART V - SCALLOPS

5.1 Licenses

5.1.1 Residents: are not required to obtain a license, provided they do not exceed the non-commercial daily catch limit, and provided that such scallops shall not be offered for sale. (ref RIGL 20-6-1) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.1.2 Non-residents: R.I. General Laws do not provide for a non-resident scallop license. Therefore, the DEM currently interprets that omission as a prohibition on non-resident scalloping. RIMFC REGULATION [Penalty - Part 6.6; (RIGL 20-6-13)] (ref RIGL 20-6-1)

5.1.3 Commercial License: A commercial scallop license shall be issued only to a resident of Rhode Island and shall be valid only for the season for which it is issued. The fee for a commercial scallop license is two hundred dollars (\$200); or three hundred dollars (\$300) for a multipurpose license. (ref RIGL 20-2-25 and 20-2-28.1) [Penalty - Part 1.16; RIGL (20-1-16)]

5.2 Daily Catch Limits

5.2.1 Residents: A resident of this State may take not more than one (1) bushel of scallops per day without a license, provided that such scallops shall not be sold or offered for sale. ref (RIGL 20-6-1) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.2.2 Commercial License: A person holding a commercial scallop license or a multipurpose license shall take in any one (1) day not more than five (5) bushels of scallops, including shells, per day/per boat/per license from the waters of the State. ref RIGL 20-6-16; RIMFC REGULATION [Penalty - Part 1.16 or 6.6; (RIGL 20-1-16 or 20-6-13)]

5.3 Scallops - Open Season -- Unless otherwise specified in regulations adopted by the Marine Fisheries Council, the open season for taking scallops from the waters of the state shall be between sunrise of the first day **[Saturday (RIMFC REG)]** of October and sunset on the last day of December of every year. Any person taking scallops in violation of this Section shall upon conviction be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisoned not more than thirty (30) days, for each offense. (RIGL 20-6-3)

5.4 Taking and Possession of Seed Scallops -- Every person taking any seed scallops, and failing to restore them as soon as possible to their natural beds in the water from which taken, shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) or be imprisoned not exceeding thirty (30) days, or both, for each offense. For the purpose of this Chapter, a "seed scallop" means a scallop with a

bright, thin, slightly curved shell with no foreign adherent, the shell having no well-defined raised annual growth line, and the scallop being less than one (1) year old. (RIGL 20-6-17) [Penalty - (RIGL 20-6-17)]

5.5 Transplanting of Seed Scallops -- The Director of Environmental Management may conduct scallop transplant programs as may be appropriate to enhance scallop stock, seed depleted areas, and further the scallop harvest in the State. (RIGL 20-6-22)

5.6 Sale of Scallops during the Closed Season -- Any person offering for sale any scallops other than during the open season for taking scallops shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each quart offered for sale, or be imprisoned not exceeding thirty (30) days, or both; provided, however, it shall be lawful to have in possession or offer for sale frozen scallops legally taken. (RIGL 20-6-18) [Penalty - Part 5.5; (RIGL 20-6-18)]

5.7 Opening Shellfish on Water -- No person shall possess the meats of more than six (6) shellfish while shellfishing on the waters of the State or throw shells of open scallops onto the scallop beds. (RIGL 20-6-21) [Penalty - Part 6.6; (RIGL 20-6-13)]

Scallop Dredging Regulations

5.8 Number, Size, and Handling of Dredges. Unless otherwise specified by regulation of the Marine Fisheries Council, no person engaged in the taking of scallops shall use more than six (6) single dredges, the blades of which shall not be more than twenty eight inches (28") in width and the bag to be used shall not be more than thirty-six inches (36") in length. Every single dredge shall be towed and hauled aboard the registered boat individually. (RIGL 20-6-19) [Penalty - Part 6.6; (RIGL 20-6-13)]

5.9 Use of Dredges -- Except as hereinafter provided and unless otherwise specified by regulation of the Marine Fisheries Council, no person shall take any oysters, bay quahaugs, or soft-shell clams from the waters of this State by dredges, rakes, or other apparatus operated by mechanical power or hauled by power boats. No licensed person shall cast, haul, or have overboard any dredges while fishing for oysters, bay quahaugs, or soft-shell clams from the free and common fisheries of this State, nor shall any licensed boat be used for fishing oysters, soft-shell clams, or bay quahaugs with dredges, except as provided in this section, provided that any person having a license issued under this Title for the taking of scallops may use a dredge or dredges, not exceeding six (6) in number nor exceeding twenty-eight inches (28") each in width, for that purpose, provided that the licensee shall immediately return all oysters, soft-shell clams, or bay quahaugs caught by the licensee to the waters from which they were taken. Any licensed boat may be used in dredging for mussels by the licensee of that boat, the licensee having first obtained a permit from the Director of Environmental Management allowing the licensee so to do; provided the licensee, while dredging for mussels under the permit granted the licensee by the Director, shall immediately return all oysters, scallops, or bay quahaugs caught by him or her to the waters from which they were taken. The fact of any licensed person being found with oysters, scallops, or bay quahaugs in his or her possession while dredging for mussels shall be prima facie

evidence that person was fishing in violation of the provisions of this Chapter and shall be subject to the penalties and fines imposed thereby. Any resident dredging for surf clams or skimmers, shall not be in violation of this Section if that dredging is done southerly of the coastline of Little Compton, southerly of a line extending from Church Point, in the town of Little Compton, to Flint Point on Aquidneck Island, southerly of the coastline of Aquidneck Island, southerly of a line extending from Castle Hill Point on Aquidneck Island, to Southwest Point of Conanicut Island to Bonnet Point, Narragansett, easterly of the coastline of the town of Narragansett, southerly of the coastline of the towns of Narragansett, South Kingstown, and Charlestown, and westerly to the Connecticut line. For the purpose of this section, "coastline" refers to the land facing the open sea. (RIGL 20-6-7) [Penalty - Part 6.6 (RIGL 20-6-13)]

5.10 Towing of Dredge during Closed Season. -- Any person who tows a scallop dredge in the waters of the State during the season closed to the taking of scallops shall, upon conviction, be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) or imprisoned not exceeding (30) days, or both, for each offense. (RIGL 20-6-20)

5.11 Registration of Boats and Display of Numbers -- No boat shall be used in the taking of quahaugs by dredge or the commercial taking of scallops unless that boat has been registered with the Director of Environmental Management. Each registered boat shall be issued a certificate of registration and assigned a number, which number shall be displayed on a flat surface in a conspicuous place upon the port side while the boat is engaged in taking quahaugs or scallops. (RIGL 20-6-4) [Penalty - Part 6.6 (RIGL 20-6-13)]

5.12 Registered Boat Operated Only by Licensee -- Each boat registered pursuant to § 20-6-4 shall be operated only by the person to whom that boat was registered, provided that person is duly licensed for the activity engaged in. Each boat so registered and used shall be limited, no matter how many persons are on board, to the catch limit established for one (1) licensee. (RIGL 20-6-5) [Penalty - Part 6.6 (RIGL 20-6-13)]

5.13 Harvesting by dip-net -- The use of all methods for harvesting bay scallops except dip-netting from a boat will be prohibited until sunrise, November 15, annually in the following areas:

Narrow (Pettaquamscutt) River, Point Judith Pond*, Potter Pond, Green Hill Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug (Brightman) Pond, Pawcatuck River/Little Narragansett Bay.

***For the 2002 scallop season, harvesting of scallops by dredge is prohibited within Point Judith Pond.**

RIMF REGULATION [Penalty - Part 3.3; (RIGL 20-3-3)]